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FAX TRANSMISSION**DATE:** September 26, 2006**PTO IDENTIFIER:** Application Number 09/476,877-Conf. #8423
Patent Number**Inventor:** Lawrence M. Ausubel**MESSAGE TO:** US Patent and Trademark Office**FAX NUMBER:** (571) 273-8300**FROM:** CONNOLLY BOVE LODGE & HUTZ LLP
Stanley B. Green**PHONE:** (202) 331-7111**Attorney Dkt. #:** 21736-00010-US**PAGES (Including Cover Sheet):** 6**CONTENTS:** Letter Accompanying Terminal Disclaimer (2 pages)
Terminal Disclaimer To Obviate A Double Patenting Rejection Over A "Prior" Patent (1 page)
Fee Transmittal (1 page)
Charge \$130.00 to deposit account 22-0185
Certificate of Transmission (1 page)

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CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800, Washington, DC 20036
Telephone: (202) 331-7111 Facsimile:

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PTO/SB/97 (08-04)

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U. S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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Application No. (if known): 09/476,877

Attorney Docket No.: 21736-00010-US

Certificate of Transmission under 37 CFR 1.8

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on September 26, 2006
Date



Signature

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Letter Accompanying Terminal Disclaimer (2 pages)

Terminal Disclaimer To Obviate A Double Patenting Rejection Over A
"Prior" Patent (1 page)

Fee Transmittal (1 page)

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PTO/SB/17 (07-08)

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Effective on 12/03/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/478,877-Conf. #8423
		Filing Date	January 3, 2000
		First Named Inventor	Lawrence M. Ausubel
		Examiner Name	F. Poinvil
		Art Unit	3628
TOTAL AMOUNT OF PAYMENT (\$) 130.00		Attorney Docket No.	21738-00010-US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 22-0185 Deposit Account Name: Connolly Bove Lodge & Hutz LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
_____	_____	_____	_____	_____
- 20 = _____ x _____ = _____				
HP = highest number of total claims paid for, if greater than 20.				
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	
_____	_____	_____	_____	
- 3 = _____ x _____ = _____				
HP = highest number of independent claims paid for, if greater than 3.				

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____ / 50 _____ (round up to a whole number) x _____ = _____		

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 2814 Statutory Disclaimer

Fees Paid (\$)

130.00

SUBMITTED BY			
Signature	<i>Stanley B. Green</i>	Registration No. (Attorney/Agent)	24,351
Name (Print/Type)	Stanley B. Green	Telephone	(202) 331-7111
		Date	September 26, 2006

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SEP 26 2006

Docket No.: 21736-00010-US
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Lawrence M. Ausubel

Application No.: 09/476,877

Confirmation No.: 8423

Filed: January 3, 2000

Art Unit: 3628

For: COMPUTER IMPLEMENTED METHODS
AND APPARATUS FOR AUCTIONS

Examiner: F. Poinvil

LETTER ACCOMPANYING TERMINAL DISCLAIMERCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This accompanies the terminal disclaimer. Since there is no rejection or other indication in this application of a need for a terminal disclaimer Applicant believes the following discussion will be useful.

On about September 12, 2006 the undersigned had a discussion with the Examiner in connection with double patenting issues in connection with US Patent 6,021,398. A review of claims in this application compared to the claims in the '398 patent indicate that the claims in this application are different from the claims in the '398 Patent. In particular, each of the claims in this application specifies that "at least one of the bids including a set identification S_i identifying at least two different items". None of the claims in the '398 patent include this or similar language.

Based on the foregoing it's apparent that even if a allegation of double patenting were to be made, that allegation would not be based on "same invention" double patenting and thus could be cured by a terminal disclaimer. However, "obviousness" type double patenting requires more than merely showing claims with different scope; in order to justify an obviousness type

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SEP 26 2006

Application No. 09/476,877

Docket No.: 21736-00010-US

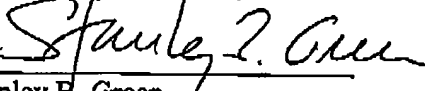
double patenting rejection, there must be some evidence that, considering the differences between the claims the claimed invention would have been obvious to someone with skill in the art. In this prosecution there is no such evidence.

Thus applicant believes the request for a terminal disclaimer is completely unjustified. However, since this application has been pending for over six years (it was filed in January of 2000) Applicant is willing to file a terminal disclaimer if it will expedite issuance of the patent. Applicant notes that a terminal disclaimer can be withdrawn at least prior to the issuance of a patent (see the MPEP at page 1490-86). Applicant reserves the right to withdraw this terminal disclaimer in the event the claims are rejected or otherwise refused on any other grounds.

Please charge our Deposit Account No. 22-0185, under Order No. 21736-00010-US, in the amount of \$130.00 covering the fee set forth in 37 CFR 1.20(d). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith.

Dated: September 26, 2006

Respectfully submitted,

By 
Stanley B. Green

Registration No.: 24,351
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant